



CRL OP(MD). No.17861 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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1. Dharmar
2. Poonkodi

... Petitioners/ Accused No.2, 3

Vs

State Rep.by
The Inspector of Police,
Kadupatti Police Station,
Madurai District.
Crime No.134/2023.

... Respondent/ Complainant

For Petitioners : M/s.Laxmanprakash A.A.S., Advocate.
For Intervenor : M/s.V.Angusamy, Advocate
For Respondent : Mr.R.M.S.Sethuraman, Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No.134/2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A2 and A3, who were arrested and remanded to judicial custody on on 26.08.2023 for the alleged offence punishable under Sections 294(b),

<https://www.mhc.tn.gov.in/judis> 342, 324, 307 and 506(ii) of IPC and Section 4 of TNPHW Act in Crime No.134 of



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2023, on the file of the respondent police, seek bail.

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2. The case of the prosecution is that there was previous enmity regarding drainage of rain water between the accused and the defacto complainant. On 16.08.2023 at about 9.30 pm., when the defacto complainant was crossing the house of the accused , A2 and A3 have abused the defacto complainant in filthy language and when the same was questioned by the husband of the defacto complainant all the accused persons abused in filthy language, assaulted her and also threatened with dire consequences. Hence the case.

3. The learned counsel appearing for the petitioners would contend that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. He would further submit that the petitioner is in custody from 26.08.2023, hence he seek bail.

4. The learned Additional Public Prosecutor appearing for the respondent Police would submit that there is a specific overt act as against the first petitioner and he only attacked the injures, hence he strongly objected to grant bail to the first petitioner.

5. Heard both sides and perused the materials available on record.

6. Considering the facts and circumstances and also taking into consideration the period of incarceration and also considering the fact that no specific overt act has



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been attributed as against the second petitioner and considering all other aspects, this Court is inclined to grant bail to the second petitioner alone, subject to the following conditions:

(i) Accordingly, the second petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Madurai and on further conditions that:

(ii) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(iii) the second petitioner shall appear before concerned trial Court on receipt of summons

(iv) the second petitioner shall not tamper with evidence or witness;

(v) the second petitioner shall not abscond during trial.

(vi) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the second petitioner in accordance with law as if the conditions have been imposed and the second petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].



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(vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7. Since specific overt act has been attributed as against the first petitioner this petition stands dismissed as against the first petitioner.

sd/-
06/10/2023
/ TRUE COPY /

06/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

TO

1 THE JUDICIAL MAGISTRATE NO.I, MADURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

4 THE INSPECTOR OF POLICE, KADUPATTI POLICE STATION,
MADURAI DISTRICT.

5 THE SUPERINTEDENT, WOMEN CENTRAL PRISON, MADURAI.

6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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ORDER

IN

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Date :06/10/2023

RS//SAR-(06.10.2023) 5P 7C

Madurai Bench of Madras High Court is issuing
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